

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16**

EXXONMOBIL GLOBAL SERVICES COMPANY

Respondent

and

Case 16-CA-269606

(b) (6), (b) (7)(C)

an Individual

AFFIDAVIT OF SERVICE OF: COMPLAINT AND NOTICE OF HEARING (with forms NLRB-4338 and NLRB-4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on December 3, 2021, I served the above-entitled document(s) by *e-Issuance or regular mail*, as noted below, upon the following persons, addressed to them at the following addresses:

JACKIE TITUS, MANAGER
EXXON MOBIL
22777 SPRINGWOODS VILLAGE PARKWAY
SPRING, TX 77389

By Regular mail

(b) (6), (b) (7)(C)

By e-Issuance: **(b) (6), (b) (7)(C)**

CHRIS MOON, ATTORNEY
215 S. STATE STREET, SUITE 760, STE. 760
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By e-Issuance: christopher.moon@jacksonlewis.com

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ATLANTA, GA 30363

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December 3, 2021

Date

Kari Kolb, Designated Agent of NLRB

Name

/s/ Kari Kolb

Signature

**UNITED STATES OF AMERICA
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EXXONMOBIL GLOBAL SERVICES COMPANY

Respondent

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Case No. 16-CA-269606

(b) (6), (b) (7)(C)

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COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by **(b) (6), (b) (7)(C)** an Individual (Charging Party). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that ExxonMobil Global Services Company (Respondent) has violated the Act as described below.

1.

(a) The original charge was filed by the Charging Party on December 1, 2020 and a copy was served on Respondent by regular mail on the same date.

(b) The first amended charge was filed by the Charging Party on October 14, 2021 and a copy was served on Respondent by regular mail on October 18, 2021.

2.

At all material times, Respondent has been a Delaware corporation with an office and place of business in Spring, Texas (Respondent's facility) and has been engaged in the business of the transport of crude oil, refined products, liquefied petroleum gases, natural gas liquids and chemical feedstocks.

3.

In conducting its operations, annually, Respondent purchased and received at its Spring, Texas facility goods valued in excess of \$50,000 directly from points outside the State of Texas.

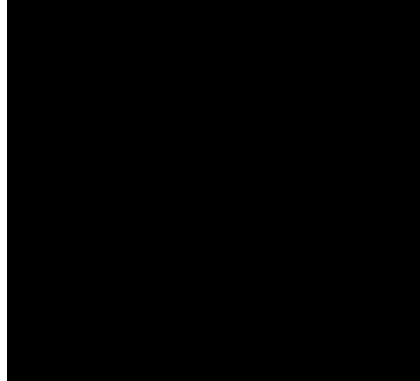
4.

At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

5.

At all material times, the following individuals held the positions set forth opposite their names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and/or agents of the Respondent within the meaning of Section 2(13) of the Act:

(b) (6), (b) (7)(C)

A large black rectangular redaction box covering the names and identifying information of the individuals listed under point 5.

(b) (6), (b) (7)(C)

A large black rectangular redaction box covering the names and identifying information of the individuals listed under point 5.

6.

(a) Since about November 2, 2020, Respondent has promulgated and maintained the following overly broad rule:

Corporate Assets Policy

It is the policy of Exxon Mobil Corporation that directors, officers, and employees are expected to protect the assets of the Corporation and use them efficiently to advance the interests of the Corporation. Those assets include tangible assets and intangible assets, such as confidential information of the Corporation or personal information held by the Corporation. No director, officer, or employee should use or disclose at any time during or subsequent to employment or other service to the Corporation, without proper authority or mandate, personal or confidential information obtained from any source in the course of the Corporation's business. Examples of confidential information include nonpublic information about the Corporation's plans, earnings, financial forecasts, business forecasts, discoveries, competitive bids, technologies, and personnel.

7.

(a) Blind is a social media site that operates under the URL <https://www.teamblind.com> and through a computer program/application (app).

(b) Blind provides a forum for professionals to communicate anonymously with other professionals. Communications may be made either in private, company-specific channels or in open channels with users across industries.

(c) Blind verifies the employers of its users by requiring them to establish their identities through their work email accounts.

(d) By July, 2020, Respondent's financial position had been significantly and negatively affected by the Covid-19 pandemic.

(e) On July 24, 2020, Business Insider published an article titled "Inside Exxon's opaque employee ranking system," and Forbes published an article titled "ExxonMobil

Reportedly Changed Its Employee Review Process To Increase Performance-Related Job Cuts.” These articles suggested that Respondent had initiated a largescale, de facto layoff by changing its employee-rating system.

(f) On August 3, 2020, Respondent announced that it would be making cuts to employee 401(k) matching contributions.

(g) At various times throughout August and September 2020, through Blind, various Respondent employees discussed concerns related to the security of their jobs and other benefits, including their pensions.

(h) On September 2, 2020, (b) (6), (b) (7)(C) sent an email with the subject line “U.S. Pension Rumors - Clarification and Context” to a group of management employees in the Information Technology department that included (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) email stated as follows:

EMIT LT,

All- There are some rumors out there suggesting that changes to the U.S. Pension are coming in the near term. I want to clarify that there are currently NO plans to change the US pension. Employees should be able to progress any retirement planning with this as an assumption.

There are not options to change the U.S. pension plan to deliver near term cash relief. Grandfathering is required otherwise we disqualify our pension plan. That is not the reason for no change, the reason is grounded in our principles and the desire for ratable retirement.

Context:

Pension plans are long term retention vehicles and are designed to ensure ratable retirements at a target age.

- Target age varies by country and is mandated by law in some countries.
- For the U.S., ExxonMobil’s current target age is ~60, consistent with current average
- U.S. average age of retirement is ~66-67 (OECD); average retirement age in U.S. O&G industry is 67 (Aon 2018 study).

Background: governing U.S. laws and regulations

Direct – The following regulations define the legal boundaries that apply to both design and administration of pension benefits:

Employment Retirement Income Security Act (ERISA): Federal governance for benefit plans with special rules for pensions

- Internal Revenue Code (IRC; rules that must be followed for pension plans that are tax qualified)

- Various other acts have reformed ERISA and the IRC, including the Pension Protection Act of 2006 (PPA), the SECURE Act, etc.

Indirect – The following regulations may apply to design and administration of pensions and are part of our compliance activities in both design & administration of pension benefits:

- Anti-discrimination laws (e.g. Civil Rights Act of 1964, Age Discrimination in Employment Act of 1967, etc.)
- Labor laws that govern collective bargaining (e.g. National Labor Relations Act) and employment laws (e.g. Fair Labor Standards Act)
- Laws that govern financial markets (e.g. Sarbanes-Oxley Act of 2002), bankruptcy, and descent and distribution (e.g. estate laws, divorce, etc.)
- Government agencies that regulate the related laws include the Pension Benefit Guarantee Corporation (PBGC, does not impact design of pensions but requires pension sponsors to pay premiums, meet certain tests and reporting), IRS, Department of Labor, EEOC, SEC, etc.

Accrued benefits are earned by the employee in the present and paid at a later time.

- U.S. employers can only change pension benefits on a go forward basis, although increasing benefits retroactively may be possible
- In the U.S., when changes reduce pension benefits, grandfathering is required per IRC Section 411(d)(6)
- Failure to grandfather results in loss of tax qualified status; increasing cost to both Company and employees

(i) On September 2, 2020, (b) (6), (b) (7)(C)

forwarded (b) (6), (b) (7)(C) to Respondent's employee (b) (6), (b) (7)(C) (the Charging Party) and 35 other employees. (b) (6), (b) (7) introduced the forwarded message as follows:

Sharing with all US based employees... One rumor squashed...it's good news. Long term retention is still a core principle and the pension is part of that goal.

(j) On (b) (6), (b) (7)(C) 2020, the Charging Party anonymously posted on an Exxon-specific Blind channel. The Charging Party titled the post "U.S Pension rumor quashed..." In the body of (b) (6), (b) (7) post, (b) (6) pasted the text of (b) (6), (b) (7)(C) email and ascribed it as coming from (b) (6), (b) (7)(C).

(k) On (b) (6), (b) (7)(C) 2020, Respondent terminated the Charging Party.

(l) The Charging Party and other employees engaged in protected concerted activities when they engaged in the conduct described in paragraphs 7(g) and 7(j).

(m) Respondent engaged in the conduct described in paragraph 7(k) because the Charging Party and other employees engaged in the conduct described in paragraphs 7(g) and 7(j) and to discourage employees from engaging in these or other concerted activities.

(n) Respondent engaged in the conduct described above in paragraph 7(k) because the Charging Party's conduct described in paragraphs 7(j) violated the rule described in paragraph 6.

8.

By the conduct described above in paragraphs 6 and 7(k), (m), and (n), Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act

9.

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for Respondent's unfair labor practices alleged above, the General Counsel seeks an Order requiring Respondent to take the following affirmative action:

(a) Reinstatement Charging Party [REDACTED] to [REDACTED] former position of employment or, if [REDACTED] former position of employment no longer exists, to a substantially equivalent position of employment, without prejudice to [REDACTED] seniority or other rights and privileges previously enjoyed by [REDACTED];

(b) Make Charging Party (b) (6), (b) (7)(C) whole for any loss of earnings and benefits suffered as a result of Respondent's unlawful conduct, with interest calculated in accordance with Board policy;

(c) Make Charging Party (b) (6), (b) (7)(C) whole for reasonable consequential damages incurred as a result of Respondent's unlawful conduct, with interest calculated in accordance with Board policy;

(d) Rescind and expunge from its files and records all references to the discharge of Charging Party (b) (6), (b) (7)(C) and notify (b) (6), (b) (7)(C) in writing that this has been done and that the discharge will not be used against (b) (6), (b) (7)(C) in the future in any way;

(e) Apologize to Charging Party (b) (6), (b) (7)(C) in writing for violating (b) (6), (b) (7)(C) rights under the Act;

(f) Insofar as the rule at issue is applicable to Respondent's employees working throughout the United States, and insofar as Respondent's conduct interfered with the rights of employees at various locations throughout the United States, a nationwide posting via physical Notice to Employees at all of Respondent's U.S. facilities, as well as intranet posting and email distribution of the Notice to all of Respondent's U.S. employees.

FURTHER, the General Counsel seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **electronically filed with this office on or before December 17, 2021**. Respondent should also serve a copy of the answer on each of the other parties.

An answer must be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **February 28, 2022, at 9:00 a.m.** and on consecutive days thereafter until concluded, a hearing will be conducted at a location to be determined before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

DATED at Fort Worth, Texas, this 3rd day of December, 2021.



Timothy L. Watson
Regional Director
National Labor Relations Board
Region 16
819 Taylor Street, Room 8A24
Fort Worth, Texas 76102

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 16-CA-269606

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in ***detail***;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

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By Regular mail

(b) (6), (b) (7)(C)

By e-Issuance: (b) (6), (b) (7)(C)

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Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered

in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.